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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

FRANCES LEVEY REVOCABLE LIVING
TRUST; WENDY KAPNER REVOCABLE
TRUST; WENDY KAPNER as trustee of Frances
Levey Revocable Living Trust, grantor and trustee
of Wendy Kapner Revocable Trust and
individually; JOEL LEVEY, as trustee of Wendy
Kapner Revocable Trust; and JAMES L. KAPNER,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05430 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL
OF SPECIFIC DEFENDANT WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and defendant Joel R. Levey, as Trustee of Wendy Kapner Revocable Trust (“Defendant”), by and through his counsel, Wachtel Missry LLP (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 2, 2010, the Trustee filed the Complaint against Defendant. The Complaint was served on March 14, 2011.
2. On June 20, 2011, Defendant filed an answer to the Complaint.
3. On June 17, 2015, the parties engaged in mediation.
4. On February 16, 2016, the Parties entered into a settlement agreement pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [ECF No. 3181].
5. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendant in the above-captioned adversary proceeding and dismissing the adversary proceeding as to Defendant without prejudice.
6. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.
7. Upon dismissal of Defendant, the caption of the adversary proceeding is hereby amended to delete Defendant from the caption. The amended caption of the adversary proceeding shall appear as indicated in Exhibit A to this Stipulation and Order.

8. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: August 25, 2017

BAKER & HOSTETLER LLP

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Attorneys for Defendant Joel R. Levey

SO ORDERED

Dated: August 25th, 2017
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit A

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